

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Findikli et al.)	
Serial No.:	10/604,982)	Confirmation No. 1981
Filing Date:	August 29, 2003)	
Examiner:	Ariel A Balaoing)	
Art Unit:	2617)	
Attorney Docket:	U02-0208.39)	
)	
Title:	METHOD AND SYSTEM FOR)	
	REGISTRATION OF LICENSED MODULES)	
	IN MOBILE DEVICES)	

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APPELLANT'S BRIEF IN COMPLIANCE WITH 37 CFR 41.37

Real Party in Interest

Sony Ericsson Mobile Communications AB is the real party in interest.

Related Appeals and Interferences

There are no other appeals or interferences, known to the Appellants, or Appellants' legal representatives, which will directly affect or be directly affected by or have a bearing on the Board's decision in this pending appeal.

Status of Claims

Claims 1-3, 5-11, 16-20, 26, 27, 29-33, 36-40, and 43-58 are pending. Claims 45-58 have been withdrawn. The November 21, 2007 final rejection of claims 1-3, 5-11, 16-20, 26, 27, 29-33, 36-40, and 43-44 is being appealed herein.

Status of Amendments

There were no amendments filed after the final office action of November 21, 2007. Applicants chose to proceed directly with this appeal. All previous papers filed by Applicants have been entered.

Summary of Claimed Subject Matter

The present invention is related to methods, apparatus, and a mobile device for detecting the initial access of a licensed software package that has been previously installed in the mobile device and registering its use. The claimed invention also includes the use of specific messages to accomplish this registration, and the collection of module parameters to aid in the process. The registration process occurs while the user uses the software so that registration is substantially transparent to the user.

Claims 1, 18, and 26 are commensurate independent claims that stand rejected under the same art. Claim 1 is an independent method claim. The first element of claim 1 is directed to detecting the licensed software package in a processing platform in the mobile device being initially accessed by a user of the mobile device. This element is shown as 202, 204, and 208 of Figure 2 and discussed at paragraph [0032]. The second element of claim 1 is directed to collecting module parameters, where the module parameters comprise at least a module identifier. This element is shown as element 310 of Figure 3 and discussed in the originally-filed specification in paragraph [0034]. The third element of claim 1 is directed to assembling a registration message based on the detecting of the licensed software package being initially accessed, the registration message comprising at least the module identifier. This element is shown as element 312 of Figure 3 and discussed in the originally-filed specification in paragraph [0034]. The fourth element of claim 1 is directed to sending the registration message from the mobile device to a module registration system corresponding to a destination address stored in the mobile device while allowing use of the licensed software package without requiring permission so that the registering of the licensed software package is substantially transparent to the user of the mobile device. This element is shown as elements 210 of Figure 2 and 316 of Figure 3 and is discussed in paragraphs [0035], [0003], [0032], and [0032].

Claim 18 is an independent claim directed to a mobile device. The mobile device is supported, at least, by paragraphs [0017], [0022]-[0031] and [0040] and Figures 1 and 4. The first element of claim 18 is directed to means for detecting the licensed software package in a processing platform in the mobile device being initially accessed by a user of the mobile device. This element is shown as element 106 of Figure 1 and discussed in paragraph [0022]. The second element of claim 18 is directed to means for collecting module parameters, the module parameters comprising at least a module identifier. This element is shown at element 106 of Figure 1 and discussed in paragraph [0025]. The third element of claim 18 is directed to means for assembling a registration message based on the detecting of the licensed software package being initially accessed, the registration message comprising at least the module identifier. This element is shown at element 106 of Figure 1 and discussed in paragraphs [0023] and [0025]. The fourth element of claim 18 is directed to means for sending the registration message from the mobile device to a module registration system corresponding to a destination address stored in the mobile device while allowing use of the licensed software package without requiring permission so that the registering of the licensed software package is substantially transparent to the user of the mobile device. This element is shown at element 106 of Figure 1 and discussed at paragraphs [0023], [0025], [0032], and [0032].

Claim 26 is another independent claim directed to a mobile device. The mobile device is supported, at least, by paragraphs [0017], [0022]-[0031] and [0040] and Figures 1 and 4. The first element of claim 18 is directed to a radio frequency (RF) block for sending messages over a telecommunication network. This element is shown at element 401 of Figure 4 and discussed at paragraph [0040]. The second element of claim 26 is directed to a processor platform for controlling the operation of the mobile device, where the processor platform comprises at least one licensed software package including module parameters comprising a module identifier, and a module handler operable to collect the module parameters and cause a registration message to be assembled upon initial access of the at least one licensed software package by a user, the registration message comprising at least the module identifier in order to enable the registering of the at least one licensed software package, wherein the processing platform is further operable to cause the mobile device to send the registration message through the RF block to a module registration system corresponding to a destination address stored in the mobile device while

allowing use of the licensed software package without requiring permission so that the registering of the at least one licensed software package is substantially transparent to the user of the mobile device. This element is shown at element 408 of Figure 4 and discussed at paragraph [0040].

Claims 19-20 are claims dependent from independent claim 18, discussed above. Claim 19 is directed to means for encrypting the registration message. This element of claim 19 is shown as element 402 of Figure 4 and element 130 of Figure 1 and discussed at paragraphs and [0026]-[0029] and [0040].

With regard to claim 20, claim 20 is directed to means for receiving an acknowledgement message from the module registration system. This element of claim 20 is shown as element 401 of Figure 4 and element 310 of Figure 3 and discussed in paragraphs [0023], [0030] and [0040].

Grounds of Rejection to be Reviewed on Appeal

1. Whether claims 1-3, 5, 6, 8-11, 16-20, 26, 27, 29, 30, 32, 33, 36-39, 43, and 44 are obvious under 35 USC § 103(a) in view of published U.S. Patent Application 2003/0224823 to Hurst et al. ("Hurst") in combination with published U.S. Patent Application 2002/0162016 to Colvin ("Colvin").
2. Whether claims 7, 31, and 40 are obvious under 35 U.S.C. § 103(a) in view of Hurst in combination with Colvin and in further in combination with U.S. Patent No. 5,148,472 to Freese et al. ("Freese").

Arguments

With respect to the first grounds of rejection to be reviewed on appeal, as presented above, the Examiner rejected claims 1-3, 5, 6, 8-11, 16-20, 26, 27, 29, 30, 32, 33, 36-39, 43, and 44 under 35 USC § 103(a) as being obvious in view of Hurst in combination with Colvin. For a proper rejection based on Section 103(a), the prior art reference (or references when combined) must teach or suggest all of the claim limitations. M.P.E.P. § 2143. The Examiner has not made such a proper rejection under Section 103(a) because the cited art does not teach all of the claim limitations.

All of these claims, either directly or through dependency, currently recite sending a registration message, "while allowing use of the licensed software package without requiring permission so that the registering of the licensed software package is substantially transparent to the user" Applicants reiterate their arguments with respect to Hurst in this regard. Hurst discloses a system in which *activation*, rather than *registration* is required. Such activation is NOT transparent to the user and requires a response from the server in order to unlock the content. Hurst repeatedly refers to an "attempt" to access the secured content, and further teaches that the user must agree that they wish to use the content. Such a process is clearly not transparent to the user and does not *allow use of the content* while registering the software, thus teaching away from Applicants' claimed invention.

In the Advisory Action, the Examiner stated that an "automatic activation" in paragraph [0048] of Hurst is transparent to the user solely because there is "no additional user intervention." Applicants disagree. The "automatic activation" in Hurst is not transparent to the user. Indeed, even though no additional user intervention is required for the "automatic activation" in Hurst, the content must still be activated "when the user attempts to access the content and agrees he wants to use the content," and thus, the content cannot be used until activation is complete. See, for example, paragraphs [0047]-[0050] of Hurst (emphasis added). Thus, the user in Hurst must still wait for completion of the "automatic activation" prior to use the software. Such waiting for the software to be activated is apparent to the user because, for example, the user will have to wait for a certain amount of time before using the software and the user cannot immediately use the software. Also, as stated above, Hurst does not *allow use of the content while registering the software*. As such, Hurst does not teach registering the licensed software "while allowing use of the licensed software package . . . so that the registering of the licensed software package is substantially transparent to the user"

In the Final Office Action, the Examiner agreed that Hurst does not disclose sending a registration message "while allowing use of the licensed software package." However, the Examiner looked to Colvin for the teaching of this concept. Nevertheless, Colvin is no better than Hurst in this regard. Colvin requires a user to enter one authorization code to make software even partially operable. Colvin requires the *user* to contact a "software license compliance representative" for an additional authorization code before being permitted to take full advantage

of the software. See, for example, paragraph [0017] of Colvin. In fact, during initial use of the software in Colvin, *the end user must contact an authorized representative* to obtain the appropriate authorization code or password. See paragraph [0029]. It is difficult to imagine a process that is less transparent and automatic, or that teaches further away from the recitations of Applicants' claims. The Examiner has pointed to language in paragraphs [0031] to [0034] of Colvin that refers to updating passwords or authorization codes automatically and transparently. However, these portions of Colvin are merely referring to periodic updates of authorization credentials, not the software itself, and these credentials are updated long after the software has initially been activated. Applicants' claims are specifically directed to a software package being "initially accessed." The teachings of Colvin are not applicable to such a situation and thus, is non-analogous art. For at least the foregoing reasons, a *prima facie* case of obviousness has not been made.

With respect to the second grounds of rejection to be reviewed on appeal, as presented above, the Examiner has rejected claims 7, 31, and 40 under 35 U.S.C. § 103(a) as being obvious in view of Hurst in combination with Colvin and in further combination with Freese. These claims are each dependent from one of the claims discussed above. Since the Examiner looks to Hurst in combination with Colvin for the recitations of the base claims, claims 7, 31 and 40 are patentable over the combination of Hurst, Colvin and Freese for at least the same reasons discussed above.

As the Examiner's rejections have been shown to be in clear error and lack essential elements of a *prima facie* Section 103 rejection or a *prima facie* obviousness rejection, it is requested that these claims be allowed to issue.

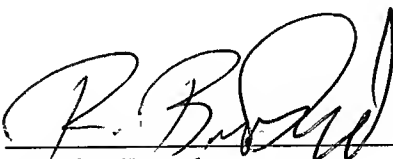
The recitations already discussed in independent claims 1, 18, and 26 are also contained in dependent claims 2-3, 5-11, 16-17, 19-20, 27, 29-33, 36-40 and 43-44 through their dependence therefrom. Thus, claims 2-3, 5-11, 16-17, 19-20, 27, 29-33, 36-40 and 43-44 are also patentable for at least the reasons presented above.

Conclusion

For the reasons state above, Applicants respectfully submit that the rejection standing in this application is improper. The Examiner has failed to establish a prima facie case of obviousness under 35 U.S.C. § 103(a). Therefore, Applicants respectfully submit that claims 1-3, 5-11, 16-20, 26, 27, 29-33, 36-40, and 43-44 are in condition for allowance. Accordingly, reversal of the rejections of claims 1-3, 5-11, 16-20, 26, 27, 29-33, 36-40, and 43-44 is respectfully requested.

Respectfully submitted,

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Claims Appendix

The following is a clean copy of the claims involved in this appeal.

1. A method of registering a licensed software package in a mobile device, the method comprising:

detecting the licensed software package in a processing platform in the mobile device being initially accessed by a user of the mobile device;

collecting module parameters, the module parameters comprising at least a module identifier;

assembling a registration message based on the detecting of the licensed software package being initially accessed, the registration message comprising at least the module identifier; and

sending the registration message from the mobile device to a module registration system corresponding to a destination address stored in the mobile device while allowing use of the licensed software package without requiring permission so that the registering of the licensed software package is substantially transparent to the user of the mobile device.

2. The method of claim 1 further comprising encrypting the registration message prior to sending the registration message.

3. The method of claim 1 further comprising receiving an acknowledgement message from the module registration system.

5. The method of claim 1 wherein the sending of the registration message further comprises sending the registration message using a short message service (SMS).

6. The method of claim 1 wherein the registration message is a wireless application protocol (WAP) message and the sending of the registration message further comprises sending the registration message to a WAP server.

7. The method of claim 1 wherein the message comprises a series of dual-tone-multi-frequency (DTMF) tones, the destination address is a telephone number, and the sending of the registration message further comprises making a telephone connection to the telephone number.

8. The method of claim 2 wherein the sending of the registration message further comprises sending the registration message using a short message service (SMS).

9. The method of claim 2 wherein the registration message is a wireless application protocol (WAP) message and the sending of the registration message further comprises sending the registration message to a WAP server.

10. The method of claim 3 wherein the sending of the registration message further comprises sending the registration message using a short message service (SMS).

11. The method of claim 3 wherein the registration message is a wireless application protocol (WAP) message and the sending of the registration message further comprises sending the registration message to a WAP server.

16. The method of claim 2 further comprising selecting a delivery path for the registration message based on a delivery path parameter for the mobile device.

17. The method of claim 2 further comprising selecting a delivery path for the registration message based on a delivery path parameter from among the module parameters.

18. A mobile device operable to register a licensed software package included therein, the mobile device comprising:

means for detecting the licensed software package in a processing platform in the mobile device being initially accessed by a user of the mobile device;

means for collecting module parameters, the module parameters comprising at least a module identifier;

means for assembling a registration message based on the detecting of the licensed software package being initially accessed, the registration message comprising at least the module identifier; and

means for sending the registration message from the mobile device to a module registration system corresponding to a destination address stored in the mobile device while allowing use of the licensed software package without requiring permission so that

the registering of the licensed software package is substantially transparent to the user of the mobile device.

19. The mobile device of claim 18 further comprising means for encrypting the registration message.

20. The mobile device of claim 18 further comprising means for receiving an acknowledgement message from the module registration system.

26. A mobile device comprising:

a radio frequency (RF) block for sending messages over a telecommunication network; and

a processor platform for controlling the operation of the mobile device, the processing platform further comprising:

at least one licensed software package including module parameters comprising a module identifier; and

a module handler operable to collect the module parameters and cause a registration message to be assembled upon initial access of the at least one licensed software package by a user, the registration message comprising at least the module identifier in order to enable the registering of the at least one licensed software package;

wherein the processing platform is further operable to cause the mobile device to send the registration message through the RF block to a module registration system corresponding to a destination address stored in the mobile device while allowing use of

the licensed software package without requiring permission so that the registering of the at least one licensed software package is substantially transparent to the user of the mobile device.

27. The mobile device of claim 26 wherein the processor platform is further operable to cause encryption of the registration message prior to sending the registration message.

29. The mobile device of claim 26 wherein the registration message is formatted for a short message service (SMS).

30. The mobile device of claim 26 wherein the registration message is a wireless application protocol (WAP) message.

31. The mobile device of claim 26 wherein the message comprises a series of dual-tone-multi-frequency (DTMF) tones and the destination address is a telephone number.

32. The mobile device of claim 27 wherein the registration message is formatted for a short message service (SMS).

33. The mobile device of claim 27 wherein the registration message is a wireless application protocol (WAP) message.

36. The mobile device of claim 26 wherein the module handler is operable to retrieve a stored value for the destination address from the module parameters, and wherein the module handler further comprises a default value for the destination address.

37. The mobile device of claim 27 wherein the module handler is operable to retrieve a stored value for the destination address from the module parameters, and wherein the module handler further comprises a default value for the destination address.

38. The mobile device of claim 29 wherein the module handler is operable to retrieve a stored value for the destination address from the module parameters, and wherein the module handler further comprises a default value for the destination address.

39. The mobile device of claim 30 wherein the module handler is operable to retrieve a stored value for the destination address from the module parameters, and wherein the module handler further comprises a default value for the destination address.

40. The mobile device of claim 31 wherein the module handler is operable to retrieve a stored value for the destination address from the module parameters, and wherein the module handler further comprises a default value for the destination address.

43. The mobile device of claim 27 wherein the processing platform is further operable to select a delivery path for the registration message based on a stored delivery path parameter for the mobile device.

44. The mobile device of claim 27 wherein the module parameters further comprise a delivery path parameter.

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Evidence Appendix

None

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Related Proceedings Appendix

None